REMARKS

This is a full and timely response to the outstanding non-final Office Action mailed March 30, 2001. Claims 1-19 remain under consideration in the present application. Reconsideration and allowance of the presently pending claims under consideration is respectfully requested. Each rejection presented in the Office Action is discussed in the remarks that follow.

A. Allowable Subject Matter

Applicant appreciates the Examiner's indication that claims 11-19 are allowed (note that the Office Action Summary correctly states that claims "11-19" are allowable while the Detailed Action mistakenly states that only claims "11-17" are allowed) and that claims 2-3 and 6-10 would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims. In that it is believed that every rejection has been overcome, it is submitted that each of applicant's claims is presently in condition for allowance.

B. Double Patenting Rejections - 35 U.S.C. § 101

1. Statement of the Rejection

Claims 1, 5, and 6 have been provisionally rejected under 35 U.S.C. § 101 as claiming the same invention as that of claims 1, 4, and 5 of U.S. Patent Application Serial No. 09/487,820 ("the '820 application"). Applicant respectfully traverses.

2. Discussion of the Rejection

Statutory double patenting rejections are based upon 35 U.S.C. § 101 which states that whoever invents a novel and useful invention may obtain "a" patent. This identification of "a" patent has been interpreted by the courts as limiting an inventor to a single patent for any individual invention. Accordingly, under statutory double patenting, an applicant will be barred from claiming the same invention in separate applications/patents.

To constitute the "same invention," the claims must recite essentially *identical* subject matter. Miller v. Eagle Mfg. Co., 151 U.S. 186 (1894); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); In re Ockert, 245 F.2d 467, 114 USPQ 330 (CCPA 1957). Therefore, a statutory double patenting rejection is only proper where the identical invention is claimed in two separate applications. When making this determination, the Examiner is to compare the claims of the conflicting applications (or the application and the relevant patent). Vogel.

In the present case, applicant's claims do not recite an invention identical to that claimed in the '820 application. Although claim 1 is very similar to claim 1 of the '820 application, claim 1 of the '820 application requires an "arcuate bottom surface" while claim 1 of the instant application only requires a "channel bottom surface". In view of this distinction, claim 1 of the instant application may be considered to be broader than claim 1 of the '820 application. Therefore, these claims cannot be said to claim the same (*i.e.*, identical) invention and, accordingly, cannot properly be the subject of a statutory double patenting rejection under 35 U.S.C. § 101. In view of this point, applicant respectfully requests the statutory double patenting rejection be withdrawn.

C. Claim Language Comment

Applicant would like to take this opportunity to clarify that the phrases "extending across one of said faces and surfaces" in claim 1 and "extends across one of said faces and surfaces" in claim 12 are intended to convey that the "channel" extends across one of the faces *or* one of the surfaces (see, *e.g.*, Figure 2), but not necessarily both. Accordingly, the phrases are intended to convey an "or" choice between two options as opposed to an "and" requiring both. This interpretation is well supported by applicant's specification and figures as originally submitted.

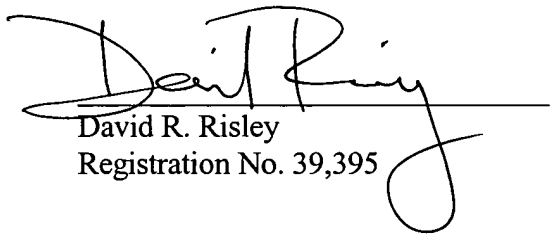
D. Newly Submitted Art

Included along with this response is a supplemental information disclosure statement (IDS) identifying U.S. Patent No. 6,089,793. Applicant notes that this "patent" was withdrawn from issue by applicant. Therefore, applicant does not believe any double patenting rejections (if applicable) would be proper as to the claims of the instant case.

CONCLUSION

In summary, it is respectfully submitted that claims 1-19 define inventions that embody a distinct advance in the art not rendered obvious by the cited art of record. Accordingly, an early Notice of Allowability would be appreciated and is therefore respectfully solicited. Should the Examiner have any questions regarding this response, the Examiner is cordially invited to telephone the undersigned attorney.

Respectfully submitted,



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